

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION NO. 190 OF 1996

For Approval & Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

-
1. Whether reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the reporters or not ?
 3. Whether their lordships wish to see the fair copy of the judgment ?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
 5. Whether it is to be circulated to the Civil Judge?

MER VIRAM POLA AGAD

VERSUS

MER MULU NATHA

Appearance:

MR AJ SHASTRI for petitioner

MR AM DAGLI for respondent

Coram: MR.JUSTICE S.K. Keshote,J

Date of decision: 23/03/2000

C.A.V. JUDGMENT

#. The plaintiff-petitioner directed this civil revision application against the order of the Assistant Judge,

Porbandar, dated 8.1.96 in Civil Misc. Appeal No.34 of 1995 under which the appeal was allowed and the order of the trial court, Civil Judge (S.D.), Porbandar, below ex.5, dated 17.7.95 in Regular Civil Suit No.364 of 1994 was quashed and set aside.

#. The learned counsel for the petitioner contended that the learned trial court has passed a reasoned order after considering all the material produced by both the parties and in this order the first appellate court should not have interfered. The order of the learned trial court cannot be said to be perverse or the order where the material produced by both the parties has not been considered. Lastly it is contended that this civil revision application arises from the suit of the year 1994 and this court has protected the plaintiff-petitioner. This interim relief granted by this court may be ordered to be continued and the directions be given to the learned trial court to decide the suit finally.

#. The learned counsel for the respondent on the other hand supported the order of the learned first appellate court. He further stated that the parties are negotiating for amicable settlement of the matter.

#. The learned trial court has granted interim relief in favour of the plaintiff-petitioner and the defendant is restrained from interfering with the possession of the plaintiff-petitioner in the suit land. During the pendency of the first appeal also, this injunction continued and only under the impugned order it was vacated. However, the learned first appellate court has also ordered that its order shall become operative only from 24.1.96. Thereafter this court has protected the petitioner. Interim relief has been granted by this court in terms of para-6(b), meaning thereby, the operation of the order of the first appellate court has been stayed. Consensus is also there between the learned counsel for the parties that the parties are making efforts to amicably settle their dispute. Though strictly the suit is not seven years' old but it is certainly an old matter. This interim relief is continuing for about seven years and in case it is continued for few months more, it will either way not cause any prejudice to the parties to the suit. Interest of justice will be met in case this interim relief is granted by this court is allowed to continue till the decision of the suit. Order accordingly. The learned trial court is directed to dispose of the suit finally within a period of 18 months from the date of receipt of

writ of this order or certified copy thereof, whichever is earlier. The Rule and civil revision application stand disposed of accordingly with no order as to costs. Liberty is granted to the respondent for revival of this civil revision application in case of difficulty.

.....

(sunil)